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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4516 OF 2007

IN

FIRST APPEAL (ST) NO.11080 OF 2007

Mr. Vijay R. Helchetti ... Applicant.

Vs.

Smt. Shakuntala Bapu Kuchekar & Ors. ...Respondents.

Ms. Pratiksha Mohite i/by Mr. Pratap Patil for the applicant.

Mr.Dilip N. Mandavia for respondent Nos. 1 and 2.

Smt. Manisha Shekhar for respondent No.3.

CORAM : ANOOP V. MOHTA,J.

DATED : 13th September, 2007.

P.C.

1. In this case, the fact remains that the impugned judgment and award which has been passed ex-parte, and therefore, as applicant was not aware of the impugned order, immediately after knowledge, visited and enquired from the advocate about the proceedings. Thereafter, application was moved for certified copy and that process resulted into 285 days delay in filing the present appeal.

2. The learned counsel appearing for respondent Nos.

1 and 2 basically contended that whole endeavour was taken to avoid the proceedings. Respondent Nos. 1 and 2 need to take various steps to serve but in vain. This conduct itself is sufficient to reject this application.

3. However, considering the merit of the matter as submitted and the fact that the impugned order and judgment is ex-parte at this stage of the proceedings. The delay of 285 days, is condoned accordingly. However, this is subject to costs of Rs.1000/- to be paid to respondent Nos. 1 and 2. The learned counsel appearing for other respondent has no objection if the application is allowed. The appeal be listed for admission after due registration.

4. Respondent Nos. 1 and 2 are at liberty to apply for withdrawal.

5. The civil application is allowed in terms of prayer clause (a).

6. The civil application is disposed of, accordingly.

[ANOOP V. MOHTA, J.]